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**ASSOCIATION OF INDEPENDENT SCHOOLS  
OF VICTORIA INCORPORATED**

**SUBMISSION**

**TO**

**SENATE STANDING COMMITTEE ON EDUCATION**

**ON**

**INQUIRY INTO THE SCHOOLS ASSISTANCE BILL 2008**

**31 OCTOBER 2008**

**AISV**

## SUMMARY

1. AISV Member Schools acknowledge that the Schools Assistance Bill 2008 (the Bill) maintains the current SES funding formula and funding levels for non-government schools for the next four years.
2. AISV supports the majority of the sections in the Bill. However there are sections that have generated significant concern among AISV Member Schools. Hence AISV and its Member Schools are unable to support the Bill without changes that address these concerns.
3. The Bill contains sections which would require schools to commit to certain matters of which no details are presently known. Hence independent schools in Victoria are uncertain whether they will be able to continue to offer high quality educational services to students and parents beyond 2011 and for the life of this funding agreement. Specifically, these concerns relate to the mandatory requirement to implement the national curriculum and the requirement to report all funding sources.
4. The Bill requires non-government schools to implement the national curriculum by 2012 in a way prescribed by regulations. The national curriculum has not been written and there is no indication as to what the regulations will prescribe. The Bill therefore requires schools to sign up to teach a curriculum that is yet to be defined.
5. The Bill introduces the concept of 'Funding Sources' and foreshadows the legislative and regulatory conditions under which schools will be required to publish all funding sources.
6. Schools are already subject to significant levels of accountability to government in relation to their use of government funding through existing reporting arrangements. Investment in education by parents and the community from private after-tax income is not a matter for government. Big brother supervision of parental decision on investing personal resources in their children's education is extreme micromanagement. The requirements on schools to report to parents and disclose their financial activities are more than sufficient for parents to determine the value of schooling.
7. Schools are also concerned that the Bill adds additional grounds for the Minister to refuse or delay funding to schools that have a qualified financial audit.
8. A qualified audit is not necessarily related to the ongoing financial viability of a school and therefore should not constitute sufficient grounds on its own for the Minister to deny funding.
9. The Bill eliminates establishment grants for new non-government schools. These grants are a significant consideration in establishing new independent schools. Their removal significantly curtails the possibility of establishing new schools in the growth corridors and outer suburbs of Melbourne that are often poorly serviced by government schools.
10. The Bill does not appear to take into account the recently established regulatory approach for schools in Victoria through the Victorian Registration and Qualifications Authority (VRQA) which provides for non-government schools to

teach a curriculum that accords with state-determined curriculum standards *or* a curriculum *that is broadly equivalent* – an approach endorsed by the National Curriculum Board.

11. Unless the Bill is amended to address the concerns raised in this submission independent schools in Victoria will continue to be subject to significant uncertainty regarding their operation until 2012 and beyond.
12. AISV proposes three amendments to the Bill to address the concerns of independent schools in Victoria:
  1. Deleting “or” from Section 15 (c) (i) and replacing it with “and”.
  2. Delete Section 22, or, insert the following subsection after section 22, subsection (2):

“Subsection (3)

The relevant authority for the school or system mentioned in subsection (1) will be deemed to have complied with that subsection if it implements a curriculum determined by a relevant state authority as acceptable for the school or system.”
  3. Amend Sections 19, 21 and 24 of the Bill to the extent necessary to:
    - i. recognise that the decision of parents to invest private after-tax income in community and educational infrastructure is not a matter for government policy, and,
    - ii. prevent public reporting of all school funding sources.

Such amendments would include deleting the reference to ‘funding sources’ in subsection 24 (1) (b) while leaving ‘financial viability’.
  4. Amend the Bill to reinstate school establishment grants as per their form and arrangements under the previous legislation.

## **ABOUT THE ASSOCIATION**

The Association of Independent Schools of Victoria (AISV) represents more than 98% of all independent schools in Victoria. Member Schools enrol more than 99% of all independent school students in Victoria. The Association’s membership includes more than 215 schools educating over 120,000 students.

As of February 2008 14% of school-age students in Victoria attended an independent school including 19% of secondary students.

As Member Schools are individual legal entities, the Association is not a system authority but is a non-profit member service organisation. As part of this role, the Association represents the interests of its Member Schools to governments and the community on a wide range of issues.

In recent years the Association has defined itself as a policy leader, underpinned by a strong research agenda and an evidence-based approach to education improvement and development. The Association has been instrumental in innovative approaches to educational reform, has trialled and piloted several significant projects and is now recognised as an important contributor to state, national and international educational thinking and practice.

## **OVERVIEW OF THE BILL**

1. AISV supports most of the Schools Assistance Bill 2008 (the Bill) insofar as it maintains funding levels and the funding formula for non-government school funding for the next four years.
2. The fact that AISV and its members welcome most of the Bill does nothing to diminish the concerns of independent schools in Victoria in relation to the unnecessary uncertainty created by some sections of the Bill.
3. AISV Member Schools acknowledge that the Schools Assistance Bill 2008 maintains the funding formula and funding levels for non-government schools for next four years subject to a number of new compliance requirements.
4. As a result of Sections 19, 22 and 24, schools are uncertain as to whether they will be able to continue to offer students and parents high quality educational services for the life of this funding agreement. Specifically these concerns relate to the mandatory requirement to implement the national curriculum and the requirement to report all funding sources.
5. It is predominantly these new compliance requirements introduced by the Bill that have generated significant concern among AISV Member Schools and created uncertainty as to whether schools will be able to continue beyond 2011 to operate as they have been doing.

## **CONCERNS OVER SPECIFIC ASPECTS OF THE BILL**

### ***SECTION 15 – INTRODUCING A QUALIFIED AUDIT AS GROUNDS FOR WITHHOLDING FUNDING***

6. Section 15 introduces additional grounds upon which the Minister can refuse or delay funding to a school. Under Subsection 15 (c) (i) of the Bill the Minister is empowered to refuse or delay payment to a school when that school has an audit that “is expressed to be qualified”.
7. Section 15 of the Bill is entitled ‘Authorised financial assistance – financial viability’. On this basis it appears that the intent of Section 15 is to provide the Minister with grounds to withhold payments from a school where doubt exists about that school’s ongoing financial viability.
8. A qualified audit is not necessarily related to the ongoing financial viability of a school. There are a range of reasons that may prompt an auditor to issue a qualified audit opinion that are unrelated to the ongoing financial viability of a school.
9. Independent schools in Victoria have reason to be confident that the Minister for Education would not exercise the power provided by Subsection 15 (c) (i) flippantly. However the Subsection establishes an unnecessarily broad basis for the Minister to withhold or delay funding and generates unnecessary uncertainty for schools that may have qualified audits unrelated to financial viability.

10. A qualified audit should not constitute sufficient grounds on its own for the Minister to deny or delay funding to a school.
11. We believe that the concerns we have raised in relation to Subsection 15 (c) (i) in the Bill can be easily remedied.
12. The Committee might consider deleting “or” from Section 15 (c) (i) and replacing it with “and”.
13. The effect of this change would be to limit the Minister’s grounds for withholding funding to qualified audits relating to a schools financial viability.
14. AISV believes where a school has an audit that is qualified in relation to the schools ongoing financial viability, it is appropriate for the Minister to review the school’s financial arrangements and, if necessary, withhold funding.
15. If this suggested change were to be made it would eliminate the concern of Victorian independent schools in relation to Section 15.
16. There are alternative amendments to the Bill which would also address the concern of schools. These include deleting Section 15 (c) (i) or specifying that the qualification should relate to the ongoing financial viability of a school.

## ***SECTION 22 – NATIONAL CURRICULUM***

17. Section 22 of the Bill makes compliance with the national curriculum before 31 January 2012 compulsory for schools as a condition of their funding.
18. The introduction of this requirement for schools has generated significant uncertainty as to whether schools can continue their current curriculum offerings beyond 2011.
19. Section 22 of the Bill does not guarantee that schools offering the International Baccalaureate, educating children according to Montessori or Steiner philosophies or providing special programs for students with disability can continue to do so beyond 2011, even though parents and the community have demonstrated that this is what they want.
20. It is important that the Bill delivers certainty to these schools so that they can continue to operate and offer their existing high quality curriculum or educational philosophy that best meets the needs of their students and has been chosen by their parents.
21. Independent schools are not opposed to a national curriculum and all independent schools will use the national curriculum to inform the teaching and learning program in their school.
22. Independent schools are committed to educational reform that improves the educational outcomes of students. This includes reform of curriculum and curriculum standards.
23. There is no need to make the funding of non-government schools contingent on compliance with the national curriculum.

24. AISV supports national curriculum standards that permit individual schools to meet such standards in accordance with the needs of their students and the choices of their parent community.
25. Independent schools are already committed to national testing regimes to monitor educational attainment of their students. Victorian independent schools are already subject to arrangements that require them to provide curricula that meet standards and are consistent with frameworks established through the Victorian Essential Learning Standards (VELS).
26. Victoria is unique nationally with a recently established regulatory authority that is responsible for the registration and regulation of all schools – both government and non-government.
27. The Victorian Registration and Qualifications Authority (VRQA) is responsible for the regulation of all education and training providers in Victoria from home schooling to higher education.
28. The VRQA is the body responsible for accrediting the curriculum offered by every school in Victoria as being meeting VELS curriculum standards or is broadly equivalent.
29. Independent schools in Victoria have their teaching and learning program accredited within a clear regulatory framework where the curriculum offering at any particular school can be broadly equivalent to VELS. The Bill as it stands provides no such certainty.
30. We also note that these regulatory arrangements applying to independent schools in Victoria were applied after extensive and positive negotiations between the Victorian Government and independent schools in Victoria.
31. In the case of this Bill independent schools in Victoria are being asked to agree to have their funding contingent on compliance with a regulation that has the potential to affect, determine and even dictate the very essence of a school – the teaching and learning program a school offers to its students and school community.
32. Victorian arrangements give schools the ability to provide an alternative curriculum that is accredited by the VRQA as meeting the standards specified by VELS, whether they are special schools, International Baccalaureate (IB), Steiner or Montessori schools or simply want to incorporate additional curriculum elements consistent with the wishes of parents.
33. AISV suggest that the Bill could easily be amended to provide certainty to special schools, IB programs and Steiner and Montessori schools and other appropriate educational innovations that may occur in the future. Providing this certainty would not undermine the objective of ensuring that all Australian schools ensure students achieve the desired educational attainment.
34. The deletion of Section 22 would satisfactorily address the concerns of independent schools in Victoria.
35. Alternatively, we would suggest that Section 22 be amended to explicitly accommodate alternative curriculum arrangements through the existing

regulatory regime in each state that governs non-government schools and the curriculum they offer.

36. We believe that the following amendment would address the concerns of independent schools in Victoria:

Insert the following subsection after section 22, subsection (2):

“Subsection (3)

The relevant authority for the school or system mentioned in subsection (1) will be deemed to have complied with that subsection if it implements a curriculum determined by a relevant state authority as acceptable for the school or system.”

37. We note that a document prepared by the National Curriculum Board entitled *The Shape of the National Curriculum: A Proposal for Discussion* acknowledges that state-based arrangements that currently accredit schools to offer alternative curriculum arrangements could continue.

38. *The Shape of the National Curriculum: A Proposal for Discussion* includes a section on the implementation of the national curriculum. In relation to the possibility of schools continuing to teach or teaching curricula other than the national curriculum it says the following:

“All states and territories currently have processes by which schools can be accredited to offer something other than their relevant state or territory curriculum. These offerings include the International Baccalaureate, programs developed within a particular educational philosophy that influences curriculum design (e.g. Montessori and Steiner) and special schools with curriculum adapted to the needs of their students. Such provisions could continue in the presence of a national curriculum though that will remain a matter for the states and territories’ registration authorities.”

39. The contribution of the National Curriculum Board casts further doubt on whether as a result of Section 22 of the Bill, schools will be able to offer something different from the national curriculum and, if so, how they will be accredited to do this.

40. We believe that the amendment to the Bill we have suggested above would satisfactorily address the uncertainty facing many independent schools in Victoria in relation to the future of their teaching and learning program and the method by which it will be accredited.

## **SECTIONS 19, 21 AND 24 – RELATING TO FUNDING SOURCES OF SCHOOLS AND THEIR PUBLICATION**

41. Section 24 of the Bill introduces the concept of ‘funding sources’ to the reporting requirements of schools. This concept was not in the previous legislation that provided for non-government school funding.

42. We note that a detailed outline of the Bill distributed by the office of the Minister for Education suggests that ‘all funding sources’ of non-government schools will be a matter for publication.

43. Sections 19, 21 and 24 of the Bill facilitate the apparent intention of the Government to publish all funding sources of non-government schools.
44. The implication of schools reporting all funding sources is that private contributions and investments from after-tax income of parents will be subject to public reporting.
45. Our Member Schools are concerned that the intention to publish all funding sources of schools is contrary to widely shared educational policy objectives.
46. Government has made it clear that it supports, encourages and seeks community and business investment in education, a policy favoured by AISV and its Member Schools.
47. We believe government policy should be to encourage greater investment in education whether from parents or the community.
48. The decision of Australian parents to invest their private, after-tax income in education should not be a relevant consideration for the Government.
49. The government should not collect information, or report on the private investment decisions made by parents or others in the community. It should not penalise schools where parents and the community choose to invest in education.
50. We also believe that government has no role in micromanaging the decisions taken by parents to invest in the education of their children using after-tax income. We further believe that the government should not require the collection of information beyond that required to ensure its explicit policy objectives.
51. Sections 19, 21 and 24 of the Bill require the collection of information and enable public reporting of this information in a way that does not accord with these principles.
52. Independent schools already have very high levels of accountability for the funds they receive from government. Schools already provide detailed financial information on their financial operations to the Australian Government via the Financial Questionnaire.
53. We note that on average the total government funding available to each student in an independent school is less than half the government funding provided to each student in a government school. This means that in choosing an independent school, on average, parents forgo more than \$5,000 in government funding.
54. The reporting requirements in the Bill continue to require schools to provide government with more information than is necessary to achieve its policy objectives.
55. We believe it is likely that the Bill's requirement for the reporting of all income sources as part of a so-called transparency agenda will discourage private investment in education by parents and the community.
56. We strongly encourage the committee to consider amendments that recognise that the decisions of parents to invest their private after-tax income in community



and educational infrastructure is not a matter for government policy and amend the Bill to remove the possibility of the public reporting of all school funding sources.

57. Specifically, we suggest an amendment to delete the reference to 'funding sources' in subsection 24 (1) (b) while leaving 'financial viability'.
58. Amendments will also be required to Sections 19, 21 and 24 of the Bill to the extent necessary to:
  1. recognise that the decision of parents to invest private after-tax income in community and educational infrastructure is not a matter for government policy, and,
  2. prevent public reporting of all school funding sources.
59. The financial viability of a school is properly the concern of the government in its role of providing funding to schools. All non-government funding are a matter for the school, parents and the school community not the government.

### ***SECTION 100 – ESTABLISHMENT ASSISTANCE FOR NEW SCHOOLS***

60. We note that the Bill has abolished establishment assistance for new schools. We acknowledge that Section 100 provides for schools currently in receipt of establishment assistance to receive their second payment.
61. We understand from our members that establishment assistance grants are considered to be a significant consideration in establishing new independent schools. The removal of these assistance grants further worsens the already adverse regulatory and funding environment facing community and other groups who wish to establish new schools.
62. We suggest that the school establishment grants be reintroduced to the Bill as per their form and arrangements under the previous legislation.

### **OTHER ISSUES WITH THE BILL**

#### ***FUNDING FOR STUDENTS WITH DISABILITIES***

63. We note that Division 6 of the Bill provides for funding from the Australian Government to improve the learning outcomes of students with disabilities.
64. A significant disparity exists in funding for students with special learning needs, particularly for students with disabilities in independent schools.
65. On average each student with a disability in an independent school receives less funding to improve their learning outcomes than any student with a learning disability in a government school.
66. The effect of this funding disparity is to heavily penalise the parents of children with special learning needs who for religious or cultural reasons wish to exercise choice in the education of their child.

67. We believe it is an important principle that the resources available to these students should not be compromised by school choice.
68. We suggest that the committee consider amendments to the Bill to provide for comparable funding resources for children with disability irrespective of the school their parents choose for them.

### ***REGULATORY CERTAINTY AND RED-TAPE ELIMINATION***

69. In a number of areas, particularly those outlined above, the Bill generates significant uncertainty for independent schools in Victoria as to the regulatory regime that will govern their operation in the future.
70. The operation of these schools would be greatly assisted by changes to the Bill that provide regulatory certainty for independent schools in Victoria, particularly assuring them that the VRQA would continue to be the responsible regulatory authority in Victoria. This is particularly relevant in relation to what teaching and learning program schools should be accredited to provide.
71. The many references to additional reporting requirements in the Bill, the Explanatory Memorandum and the Minister's second reading speech concern our Member Schools because they are likely to add to the already significant regulatory burden that our Member Schools face.
72. We suggest the committee consider all possible amendments to the Bill to lessen the regulatory and reporting burden on schools. We believe that this can be done without compromising the objectives for school accountability and reporting transparency.
73. We understand that the intent of the current negotiation between the states and the Commonwealth in relation to the National Education Agreement is intended to ensure consistent outcomes while empowering states to determine the best way to achieve these outcomes. The government has repeatedly stated that all schools, government and non-government, will be treated equally.
74. It appears that the Bill does not accord with this aspiration. While non-government schools are required to sign-up to national testing to receive funding they are also be required to teach a mandated curriculum rather than using it to inform a teaching and learning program that best meets the needs of their students and parents.

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